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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,310	02/13/2001	Joseph Breedon	P 272852	7942
27160	7590	04/07/2005	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 525 WEST MONROE STREET CHICAGO, IL 60661-3693			COLBERT, ELLA	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Applicants' Amendment

1. Claims 1-22 and 45-66 are pending. Claims 1 and 45 have been amended and claims 23-44 have been canceled in this communication filed 1/31/05 entered as Response After Non-Final Action.
2. The 35 USC 101 Rejection for claims 45-66 has been overcome by Applicant's amendment to the claims. The 35 USC 101 Rejection still remains for claims 1-22 as set forth here below.
3. The Drawing Objection has been withdrawn in view of the Applicant's convincing arguments. The Drawing Objections were in error.
4. The 35 USC 112 Second paragraph rejection for claims 44-54 has been overcome by Applicant's cancellation of claim 44 and amendment to independent claim 45 and is hereby withdrawn.

The amendment filed on 1/31/05 is not fully responsive to the prior Office action because of the following omission(s) or matter(s): Applicants' reply does not comply with 37 C.F.R. 1.111 because it does not amend the claims 1-22 in response to the 35 U.S.C. 101 rejection and give a substantial reason for not amending the claims to be in compliance with 35 USC 10. The recitation "A method executed by computer under the control of a program for predicting vintage behavior" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not

depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Applicants' have attempted to overcome the 35 USC 101 rejection. However, the claim does not have a technological basis in the body of the claim because a computer or device is not in the body of the claim to perform the method steps that follow the preamble. Thus, the claim may be interpreted in the alternative as involving no more than a manipulation of an abstract idea that can be performed by a manual process using a pencil and paper and therefore non-statutory under 35 USC 101. The receiving first a set of data, the first set of data being based on at least one of a first factor and a second factor; the determining a second set of data based on the first set of data and the first factor; determining a third set of data based on at least one of the first set of data and the second factor; providing an indication of a prediction of vintage behavior ...; wherein the first factor includes a factor related to vintage maturation and the second factor includes a factor not related to vintage maturation appears to be a mathematical calculation and could be performed by a pencil and paper. Since the above-mentioned reply appears to be *bona fide*, applicants' are given a time period of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. Extensions of this time period maybe granted under 37 CFR 1.136(a).

This action is **NON-FINAL**.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday, 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E. Colbert
April 2, 2005